

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 WESLIE MARTIN,
5

6 Plaintiff,

7 vs.

8 THE STATE OF NEVADA, *et al.*,

9 Defendants.

2:18-cv-02426-RFB-VCF

ORDER

10 Before the court is Plaintiff's Motion to Extend and Correct the Names of All Defendants (ECF
11 No.47).

12 On November 9, 2020, the Attorney General accepted service on behalf of Defendant Efrain Lona.
13 Service was not accepted on behalf of Defendants Officer Dubree and Officer Warden. (ECF No. 32).

14 In Defendant's First Supplemental Notice of Acceptance of Service, Defendants Officer Dubree
15 and Officer Warden have been identified as Mark Dubree and William Wharton. (ECF NO. 42).

16 Defendants Mark Dubree and William Wharton's last known address(es) were filed under seal.
17 Plaintiff now seeks the Court for an order authorizing the U.S. Marshal to serve Defendants Mark Dubree
18 and William Wharton with a copy of the Complaint and Summons.

19 Plaintiff has given sufficient reason for the court to grant his request.

20 Plaintiff requests the court to correct the names of Defendants Officer Dubree and Officer Warden
21 since Defendants Officer Dubree and Officer Warden have now been identified as Mark Dubree and
22 William Wharton.

23 Under LR7-2(d), the failure of an opposing party to file points and authorities in response to any
24 motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent to
25 the granting of the motion.

1 Here, no opposition has been filed and the time to file an opposition has passed. It would seem as
2 though appearing defendant have consented to the granting of the instant motion.

3 Accordingly, and for good cause shown,

4 IT IS HEREBY ORDERED that is Plaintiff's Motion to Extend and Correct the Names of All
5 Defendants (ECF No.47) is GRANTED.

6 The Clerk of Court is directed to issue sealed Summons to Defendants Mark Dubree and William
7 Wharton at the address(es) provided under sealed in ECF No. 43 and deliver same to the U.S. Marshal for
8 service. The clerk is directed to mail to plaintiff the USM-285 form(s) for each of the named defendants.
9 The clerk is directed to send copy of the Complaint, Summons, and copy of this order to the U.S. Marshal
10 for service on Defendants Mark Dubree and William Wharton. Plaintiff has thirty (30) days within which
11 to furnish to the U.S. Marshal the required USM-285 form with relevant information as to Defendants
12 Mark Dubree and William Wharton.

13 Within twenty (20) days after plaintiff receives copy of the completed USM-285 form from the
14 U.S. Marshal, plaintiff must file a notice with the court stating if defendant was served. If the plaintiff
15 wishes to have the U.S. Marshal attempt service again on any of the defendants, then a motion must be
16 filed with the court.

17 IT IS FURTHER ORDERED that the time to effectuate service on Defendants Mark Dubree and
18 William Wharton, is extended to May 31, 2021.

19 The Clerk is directed to change the names of Defendants Officer Dubree and Officer Warden to
20 Mark Dubree and William Wharton.

21 DATED this 9th day of March, 2021.



22 CAM FERENBACH
23 UNITED STATES MAGISTRATE JUDGE
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